



Neutral Citation Number: [2023] EWHC 3511 (Fam)

Case No: FD22P04104

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 01/11/2023

Before :

MRS JUSTICE LIEVEN

Between :

BIRMINGHAM CITY COUNCIL

Applicant

and

MOTHER

First Respondent

and

FATHER

Second Respondent

and

AA

Third Respondent

Mr Nick Goodwin KC (instructed by Birmingham City Council) for the Applicant

The First Respondent appeared in person

The Second Respondent did not attend and was not represented

Ms Lizzie Hughes (instructed by Wace Morgan) for the Third Respondent

Hearing dates: 1 November 2023

Approved Judgment

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

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Mrs Justice Lieven DBE :

1. This is an application by Birmingham City Council, the Local Authority (“LA”), for a deprivation of liberty (“DOLS”) order in respect of AA, who is a 15 year old girl. I am not going to set out the full background or a comprehensive summary of what has happened with her, but I am giving this judgment so that it can be disclosed to the magistrates who are holding a sentencing hearing tomorrow. I heard evidence briefly from the social workers and AA’s mother.
2. AA is a child with a history of extremely dysregulated behaviour and that manifests itself in very serious actions of self-harm and assaults on third parties. That history of assaults goes back to at least early 2022 and there are two incidents I draw particular attention to. On 22 November 2022 AA caused extensive damage, headbutted a staff member causing considerable injury, and then made threats to kill and stab another young person. At that stage she was being looked after by the LA in the community. There was a period with a number of self-harming incidents and her absconding from placements. She did have a period of relative stability in one of those placements, but that came to an abrupt end in early August 2023 when she was arrested after going missing from care and carried out a serious assault on a police officer, for which she has been charged.
3. Since 11 August 2023 she has been placed at HM YOI X. Since then there have continued to be incidents of self-harm and serious dysregulation including a number of really worrying incidents where she was found to be tying ligatures. There is a genuine and very serious risk of attempted suicide and serious self-harm.
4. As I understand it, she is appearing before the Magistrates tomorrow for sentencing in respect of two charges of assault and one escape from custody (the dock). AA has made it clear to the social workers and to her mother that she wishes to remain at HM YOI X and she will commit further assaults to get back there if she is not detained there tomorrow. As her mother says, when AA has issued such threats in the past, she has sadly acted upon them, and this is therefore not a case where we can say that she is simply threatening things to get her way and we don’t need to worry about the threats themselves.
5. Having heard the social workers and her mother, I am not just deeply concerned, I am effectively confident that if she is released into the care of the LA tomorrow it is overwhelmingly likely she will very soon thereafter assault someone, whether a social worker, care worker or police officer. I have to consider not only her best interests under the Children Act 1989 but also my positive obligations under Articles 2 and 3 of the European Convention on Human Rights, therefore the Human Rights Act 1998, for the State to act to protect people when there is a known risk of death or serious injury. Here, there is a known risk that if AA is released back to the care of the LA in the community, such an event may occur.
6. The likelihood is that AA will assault other people employed by the State in whatever capacity, and quite possibly third parties. Miss Clarke, the social worker who gave evidence, said that if AA is discharged into the LA’s care, the assessed level of risk will be extremely high. Both social workers made clear to me that the LA simply cannot manage that risk in the community.

7. The LA has sought to find secure accommodation placements and have taken every possible step to do so. As the magistrates are aware, there is an extreme national shortage of such places. But also, and most concerningly, some of the secure units approached have said that AA is too high a risk and too violent for them. That shows beyond any possible doubt that releasing her into the care of the LA, where the only option is to place her in a house with staff and under a DOLS, is simply going to result in further injuries, whether to AA or a third party or both.

8. In those circumstances, I would very strongly urge the magistrates tomorrow to adjourn the matter before them and remand her for a further period in HM YOI X to give the LA time to try to find a secure accommodation unit or to take alternative legal strategies, whatever those may be. I cannot order the magistrates to do anything, but I do repeat my concern about my and their positive obligations to take steps to protect third parties from known risks.